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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/009,680
Filing Date: October 20, 2001
Appellant(s): HAUG, WERNER

Klaus P. Stoffel
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/2/09 appealing from the Office action mailed 3/24/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,106,094	OTANI et al	8-2000
EP0376575	GILHAM	12-1989

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Otani et al (US 6,106094).

As per claim 1, Otani et al discloses:

Franking machine with at least one print head of an inkjet print mechanism for printing flat postal objects such as letters or postcards, (Col. 6, lines 59-64, shows printing head, and the evaluation of printed letters), insertable into or passing through the machine, (Abstract, lines 1-3, shows printer apparatus with an input unit for printing input data), comprised of a guide part, (Col. 4, lines 49-50, show paper conveying portion constituted by a guide), and further relative to its jet a transport device for and oppositely positioned conveying rollers rotating about axes oriented transverse to the conveying direction, (Col. 4, lines 38-40, arranged so as to project about the print head, shows payer conveying unit conveys the printing paper beneath the printing heads, in this case, the paper conveying unit represents the transport device), wherein the transport device has two drive rollers connected driving connection with one another and forming together with the guide part a conveying path, which drive rollers, when

viewed in the conveying direction, are arranged before and behind the print head, (...and which is reversibly liftable, (Col. 18, lines 35-37, shows a paper inversion unit for inverting the printing paper), wherein a sensing wheel (38, 119) is arranged between the drive rollers (32, 33; 127, 113) which sensing wheel is driven by the postal object passing along and is correlated with an encoding device (122) for the purpose of speed and position

monitoring of a postal object to be transported, (col. 4, lines 48-52, shows paper conveying portion includes a sensor for detecting the position of the printing paper, and an encoder for detecting the sheet conveyance speed form the rotation speed of the roller), respectively, for controlling printing on a postal object. wherein the opening plane, having correlated therewith transporting the postal objects between encoding device (122) is connected to a control unit connected to a computer, (Col. 4, lines 52-58, shows control portion).

The following is inherent with Otani et al: a counter pressure roller arranged opposite thereto, respectively, which exerts a pressure against one drive roller or the postal object transported there between"

The above limitation is inherent with Otani et al since Otani et al do disclose feed rollers at each printing unit as disclosed above (Col. 18, lines 46-48, shows that each unit is constituted by a roller). In the printing art, feed rollers rotate around an axis that is transverse to the direction of travel of the item of mail in order to move the item of mail along a guide path, and pressure rollers are included with drive rollers in order to apply a counter pressure on the item of mail against the printer so as to increase the

transfer of ink to the item of mail. In other words, if no pressure roller was included in Otani et al's invention, no printing would take place.

As per claim 3, Otani et al discloses:

wherein the sensing wheel (38, 119) is in drive connection with the drive roller (33, 113) arranged downstream in the conveying direction, (Col. 30,lines 5-11, shows that the printing regions of the printing heads continue with respect to a direction of a printing width which is perpendicular to a conveyance direction of the print medium, thereby meaning that printing length is going in the same direction as the conveying direction).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otani et al (US 6,106,094) as applied to claim1 above, and further in view of Gilham (EP 0 376 575).

As per claims 4, 5, Otani et al does not specifically disclose wherein, laterally to the counterpressure roller 114) cooperating with the drive roller 113), a friction wheel (109) is provided which is concentric to and freely rotatingly supported relative to the counterpressure roller and can be brought into drive connection by the counterpressure levers (6A, 6B; 120) with the drive roller (33, 113) which friction wheel drives a further

friction wheel (126) by means of an intermediate gear formed of intermediate wheels, the further friction wheel being in drive connection with the sensing wheel/wherein the further friction wheel (126) is supported with the counterpressure roller (115, 114) on a multi-part lever (101) and is movable against the sensing wheel (38,119) counter to a spring force, however does disclose a printer apparatus for successively printing input data at a high speed having an input unit in the abstract, lines 1-2, that includes a paper conveying portion constituted by a roller and guide for feeding the printing paper in col. 4, lines 48-49.

However, as taught by Gilham, the conveyor portion would contain at least two conveyor rollers that rotate around an axis that is transverse to the direction of travel of the item of mail in order to move the item of mail along a guide path and would include a pressure roller located opposite of the printer in order to apply a counter pressure on the item of mail against the printer so as to increase the transfer of ink to the item of mail, as demonstrated in col. 3, lines 21-27, where it discloses an impression roller together with feed rollers that feed the tape past the print head.

However, in regard to the structure use in claims 4 and 5 to provide the counter pressure, since it is noted that, items of mail may not be the same thickness, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for the system of Otani et al as interpreted by Gilham to use a friction wheel/a further friction wheel by means of an intermediate gear formed of intermediate wheels/a multi-part lever movable against the sensing wheel counter to a spring force, with the motivation of using any suitable structure that would have some flexibility in applying a

constant counter pressure against the printer regardless of the thickness of an item of mail, such as friction rollers, lever ands spring, absent applicant's showing of new and unexpected results from a particular structural arrangement.

(10) Response to Argument

The appellant argues that Otani et al the reference does not deal with a franking machine because a franking machine operates discontinuously, i.e. with interruptions for processing mail and shipment pieces. However, Otani et al discloses in col. 7, lines 36-42 that there are different test patterns on the printing machine that handles checks on the quality of the printing of letters is done, and is therefore directed to a franking machine.

In addition, appellant argues that The Examiner once again refers with respect to Gilham to a roller arrangement which is supposedly similar to the embodiments of Figs. 4 and 5 of the present application, and that a careful review of the reference does not reveal a configuration corresponding to claims 4 and 5, even in combination with a franking machine. However, as described in the rejection, a counter pressure roller arranged opposite thereto, respectively, which exerts a pressure against one drive roller or the postal object transported there between is inherent with Otani et al since Otani et al does disclose feed rollers at each printing unit as disclosed in Col. 18, lines 46-4, and in the printing art, feed rollers rotate around an axis that is transverse to the direction of travel of the item of mail in order to move the item of mail along a guide path, and pressure rollers are included with drive rollers in order to apply a counter pressure on

the item of mail against the printer so as to increase the transfer of ink to the item of mail. In combination with Gilham, the roller arrangement is fully supported. Specifically, as taught by Gilham, the conveyor portion would contain at least two conveyor rollers that rotate around an axis that is transverse to the direction of travel of the item of mail in order to move the item of mail along a guide path and would include a pressure roller located opposite of the printer in order to apply a counter pressure on the item of mail against the printer so as to increase the transfer of ink to the item of mail, as demonstrated in col. 3, lines 21-27, where it discloses an impression roller together with feed rollers that feed the tape past the print head. In other words, if no pressure roller was included, no printing would take place. One can not feed without pressure or without propelling to push the paper/letter forward, and therefore, the roller arrangement of the present invention is represented through the combination of the Otani et al and Gilham references.

In addition, appellant makes arguments that relate to the invention as disclosed and not specifically as claimed as shown on page 11, third paragraph of the brief, where appellant argues "a system which is monitoring the conveying speed on the basis of the roller speed", then on page 12, first paragraph of the brief, where applicant argues "leave open the possibility of a change of the speed of the printed sheets in front". However, there are no limitations in the claims with regard to changing the speed of the printed sheets. In addition, on page 12, fourth paragraph of the brief, appellant generally argues "However, these features of the reference do not in any way resemble the features of the independent claim of the present application. A

configuration according to claim 1 is clearly of a different type from the device according to the reference". However, these are arguments that have no specific reference to the claims.

Additionally, on the bottom of page 9 of the brief in the last paragraph, appellant argues that the following limitation is no mentioned in prior art used: "franking machine with at least...such as letters or postcards, insertable into or passing through the machine". However, this limitation appears in the preamble and is not afforded any patentable weight, which is just intended use.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Akiba K Robinson-Boyce/

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